

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Bufter	Team: Team # 8	CCRB Case #: 200408566	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 08/29/2004 5:00 AM	Location of Incident: West 33rd Street and 7th Avenue	Precinct: 14	18 Mo. SOL 2/28/2006	EO SOL 2/28/2006	
Date/Time CV Reported Sun, 08/29/2004 7:20 AM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Wed, 09/01/2004 11:41 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Stanley	30192	932010	017 PCT
2. POM Matthew Cahill	22175	929812	017 PCT
3. POM Gaspar Sciacca	24641	931192	017 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Christop Dantoni	02655	903744	017 PCT
2. POM Jason Rubenstein	24550	931108	017 PCT
3. POM Brian Johnson	14496	930425	017 PCT
4. POF Karen Murphy	23744	930803	017 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Stanley	Abuse: At 5:00AM, PO Brian Stanley stopped § 87(2)(b)	
B.POM Brian Stanley	Force: At 5:00AM, PO Brian Stanley used physical force against § 87(2)(b)	
C.POM Gaspar Sciacca	Force: At 5:00AM, PO Gaspar Sciacca used physical force against § 87(2)(b)	
D.POM Brian Stanley	Abuse: At 5:00AM, PO Brian Stanley issued a summons to § 87(2)(b)	
E.POM Brian Stanley	Abuse: At 9:00AM, PO Brian Stanley stopped § 87(2)(b)	
F.POM Brian Stanley	Force: At 9:00AM, PO Brian Stanley used physical force against § 87(2)(b)	
G.POM Matthew Cahill	Abuse: At 9:00AM, PO Matthew Cahill frisked § 87(2)(b)	
H.POM Matthew Cahill	Abuse: At 9:00AM, PO Matthew Cahill searched § 87(2)(b)	

## Synopsis

This complaint stems from protests that occurred during the Republican National Convention held in New York City from August 29 to September 2, 2004. The protests and the convention received extensive press coverage. As such, the case was determined to be sensitive and placed on the agency's sensitive case list. On August 29, 2004, § 87(2)(b) was walking near 7<sup>th</sup> Avenue between 32<sup>nd</sup> and 33<sup>rd</sup> Street. He walked through an open gap between two police barriers without realizing that he was entering a restricted area for the Republican National Convention. Three officers—PO1, PO2 and PO3—approached and stopped him (*Allegation A*). Along with a secret service agent, they questioned him for about 15 minutes. Ultimately, he was cleared to leave. As he walked away, he engaged in a brief argument with PO1 and said, "Fuck you," to this officer. PO1 and another officer then grabbed § 87(2)(b) and threw him against a parked sanitation truck. PO1 then handcuffed § 87(2)(b) and walked him to the corner of 7<sup>th</sup> Avenue and 33<sup>rd</sup> Street where he allegedly slammed § 87(2)(b)'s face into a jersey bumper (*Allegation B*). PO2 then grabbed § 87(2)(b)'s handcuff chain and lifted it up, causing pain to § 87(2)(b)'s arms (*Allegation C*). PO1 issued § 87(2)(b) a summons for disorderly conduct and § 87(2)(b) left (*Allegation D*). Five hours later, and after § 87(2)(b) had filed a complaint at the Midtown South stationhouse, § 87(2)(b) returned to the same intersection. PO1 stopped him, handcuffed him and led him back into the restricted area (*Allegation E*). When § 87(2)(b) complained of the pain to his wrists from having been previously handcuffed, PO1 grabbed his arm and lifted it up (*Allegation F*). PO3 frisked § 87(2)(b) (*Allegation G*). Then, he removed § 87(2)(b)'s cell phone and opened it up (*Allegation H*). After PO1 consulted with a commanding officer, the officers released § 87(2)(b).

The investigation identified PO1 as PO Brian Stanley, PO2 as PO Gaspar Sciacca and PO3 as PO Matthew Cahill. § 87(2)(b), § 87(2)(g)

██████████ This complaint was initially assigned to Inv. Erickson, who resigned on September 1, 2005. Assistant Supervisory Investigator Butfer wrote the closing report.

### Summary of Complaint

### *Initial Complaint to the CCRB*

On August 29, 2004 at 7:00AM, § 87(2)(b) made the following written complaint verbatim at the Midtown South station house:

Walked uptown on 7<sup>th</sup> Avenue, entered area that was open to the public. Gates were in place but the barricades were open. I was stopped by Officer Stanley who asked for ID. ID was provided and I was questioned about my destination. I told the officers that I was paged for work and that I worked at 7<sup>th</sup> between 37<sup>th</sup> and 38<sup>th</sup>. After about 10-15 minutes I was “released” and given my ID. The officer then said that I should “stay out of restricted areas.” I replied that “restricted areas should actually be restricted.” Officer Stanley and Officer Sciacca then approached me and said that I was being a smart ass. I replied with “fuck you” and was then thrown against a sanitation van. Handcuffs were placed on me and I was then taken to the intersection of 33<sup>rd</sup> and 7<sup>th</sup>. I was in the middle of 32<sup>nd</sup> and 33<sup>rd</sup> when handcuffs were on me. I was then slammed against a gated section where my face was scratched and my lip was busted/bleeding. I told the arresting officer (Stanley) that the violence was not needed and he responded by lifting my cuffed arm higher behind my back. When I asked what I was being charged for the officers paused

for a while before stating "240X." After being held for over 40 minutes I was given a summons and told that I needed to have my picture taken because "you have one of those names." I have scratches on my face and a bloody lip. (Encls. 9)

§ 87(2)(b)

§ 87(2)(b) a § 87(2)(b)-old Middle Eastern male who is 5'8" tall and weighs 220 lbs., was interviewed via telephone by Det. Mark Dennis of IAB on August 29, 2004 at 9:00AM (encls. 10). § 87(2)(b) provided a telephone statement to Inv. Erickson on September 1, 2004 (encls. 14) and was interviewed at his place of business on September 9, 2004 (encls. 15). He also provided a statement at a 50h hearing on December 14, 2004 (encl. 15). The following is a synthesis of those statements, with any discrepancies among them noted below:

On August 29, 2004 at about 4:30AM, § 87(2)(b) was leaving an after-hours club with a group of friends when he received a page from his office, where he provides around-the-clock computer support. He had had two drinks in four hours and did not feel intoxicated. The club was located at 30th Street and 7th Avenue and § 87(2)(b)'s workplace is between 37th and 38th Streets on 7th Avenue. While walking between 32nd and 33rd Streets on 7th Avenue, § 87(2)(b) passed through a gap between two police barriers, not realizing that the area behind them was off-limits. Three officers (POs 1, 2 and 3) and a Secret Service agent (SS1) stopped § 87(2)(b) and questioned him for about 15 minutes. Apparently satisfied with § 87(2)(b)'s answers, they allowed him to leave. In his 50h hearing, only he alleged that unspecified officers frisked him prior to dismissing him. As § 87(2)(b) was walking back past the police barriers, PO1 said, "You should stay out of restricted areas." § 87(2)(b) responded that restricted areas should, in fact, be restricted. PO1 called § 87(2)(b) a smartass and § 87(2)(b) said to PO1, "fuck you." PO1 and another officer then grabbed § 87(2)(b) and threw him against a parked sanitation truck. Two other officers, described only as white, male officers in uniform, were standing nearby when PO1 grabbed § 87(2)(b). After placing § 87(2)(b) in handcuffs, PO1 led § 87(2)(b) to the northwest corner of 33rd Street and 7th Avenue. There, PO1 shoved § 87(2)(b) face-first against another police barrier (a Jersey bumper with a metal grate on top), causing § 87(2)(b) to scratch the side of his face in several places and to bruise and cut his lips. § 87(2)(b) told the officers that the violence was unnecessary and PO2 responded by lifting the handcuff chain to make them more uncomfortable. § 87(2)(b) sustained bruises and numbness in his wrist and hands.

While in handcuffs, § 87(2)(b) asked an unidentified sergeant to identify the officers who had arrested him, but the sergeant said § 87(2)(b) was not privileged to that information. § 87(2)(b) was not told why he was being detained, despite numerous requests. PO1 emptied § 87(2)(b)'s pants pockets, placing the contents on the shelf of a police truck. § 87(2)(b) had his wallet, cell phone, and some glow sticks in his pocket. § 87(2)(b) said that PO1 and another officer also patted down his legs after emptying his pockets. PO1 removed § 87(2)(b)'s handcuffs but told him that he needed to speak with the Secret Service agent again. An officer standing behind § 87(2)(b) said that he had "one of those names" and would have to be photographed. Two Secret Service agents took a photograph of § 87(2)(b) and indicated that he could leave. § 87(2)(b) retrieved his identification and the summons, which was for disorderly conduct, and continued to his workplace at about 5:30AM.

§ 87(2)(b) had been summoned to work to make repairs to a computer server, which took about one hour, and then went to the Midtown South station house to file a complaint. § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-

At the station house, SGT Castro (identified by name) took § 87(2)(b)'s complaint and indicated that if he wanted a copy, he would need to wait for the report to be typed. § 87(2)(b) waited for over an hour for the typed report to be completed. While he was waiting, SGT Castro said that officers from IAB were interested in meeting with him and that they would arrive shortly. After waiting nearly an hour for the IAB officers, § 87(2)(b) spoke over the phone with DET Dennis. SGT Castro took Polaroid photographs of § 87(2)(b)'s injuries.

In his phone and interview statements to the CCRB, § 87(2)(b) added the following account of a second incident that took place after he filed his complaint at Midtown South and spoken with Det. Dennis:

After leaving the station house (located on 35<sup>th</sup> Street between 8<sup>th</sup> and 9<sup>th</sup> Avenues), § 87(2)(b) walked east on 35<sup>th</sup> Street to 7<sup>th</sup> Avenue and started to walk south. Both 8<sup>th</sup> and 9<sup>th</sup> Avenues were closed south of 35<sup>th</sup> Street. § 87(2)(b) was walking towards a McDonalds Restaurant and was not conscious that his route was taking him past the incident location. § 87(2)(b) explained that he has worked in the area for years, implying that he could navigate the area unconsciously, and that his mind was occupied with what had already happened to him that morning. While walking home at about 9:00AM, § 87(2)(b) was again passing by 33rd Street and 7th Avenue. § 87(2)(b) heard someone running after him and turned to see that it was PO1. PO1 placed § 87(2)(b) in handcuffs and led him back into the restricted area where he had previously been detained. When § 87(2)(b) asked why he was being stopped, an unidentified officer responded, "For being stupid." § 87(2)(b) complained that his wrists were sore from being handcuffed earlier and asked that PO1 be careful. PO1 responded by jerking on § 87(2)(b)'s arm, causing further pain. POs 1 and 3 again emptied § 87(2)(b)'s pockets and patted down his legs. PO3 took § 87(2)(b)'s cell phone and looked to see what numbers he had recently called. They included DET Dennis of IAB, whose number had been given to him at the station house and the CCRB. PO3 reportedly made calls on § 87(2)(b)'s cell phone.

PO1 asked where § 87(2)(b) had been and § 87(2)(b) told PO1 to look in his wallet and retrieve the copy of the complaint form that he had obtained at the station house. PO1 took that complaint form to a commanding officer standing some distance away. PO1 returned and said, "Let him go. He [the commanding officer] is pissed." § 87(2)(b) was then released without further incident.

§ 87(2)(b) said that there were numerous reporters present during the second incident, but did not know whether they were TV or print journalists nor what organizations they worked for.

§ 87(2)(b) described PO1 as a white male in his early to mid 30s, who was over 5'8" tall and had a slim build, blue eyes, and a uniform. PO2 was a white male, older and taller than the other officers, who was heavysset and dressed in uniform. PO3 was a white male in his late 20s or early 30s, who was 5'3" tall and had reddish hair, a regular build and a uniform. The sergeant was a short, bald, white male in his late 30s or early 40s, who was dressed in uniform.

§ 87(2)(b)'s statements were all made shortly after the incident and were highly consistent.

*Additional attempts to contact § 87(2)(b) for a photo viewing*

Between November 15, 2005 and November 21, 2005, the CCRB placed four phone calls to § 87(2)(b)'s cell phone and four phone calls to his home number. The CCRB also sent two letters to his house between these dates. § 87(2)(b) did not respond to any of these contact efforts.

## **Results of Investigation**

### ***Civilian Statements***

*Special Agent § 87(2)(b) – Secret Service*

SA § 87(2)(b) works in the Secret Service's Houston office and was interviewed by phone on December 21, 2004 (encls. 16). On August 29, 2004, SA § 87(2)(b) and § 87(2)(b) (of the Immigration and Customs Enforcement Service) were one of several Secret Service teams providing security in the vicinity of Madison Square Garden. Just after 5:00AM, as he was beginning his tour, SA § 87(2)(b) received a call over his radio that NYPD officers had detained an individual inside the restricted area around the Garden, near the corner of West 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue. SA § 87(2)(b) and his partner were about two blocks away, and by the time they arrived at the location, the individual had been removed from the restricted area and was standing in the street on 7<sup>th</sup> Avenue. Three police officers, one of them PO Stanley, were standing nearby, telling the individual to leave. PO Stanley informed SA § 87(2)(b) that he had seen the individual in the restricted area, approached him, and questioned him about what he was doing. According to PO Stanley, the individual had been verbally abusive and had not provided an explanation for his presence in the restricted area. PO Stanley had issued the individual a summons for failing to obey an officer's instruction to leave the area.

While the officers were still present, SA § 87(2)(b) questioned the individual about why he had entered the restricted area. The individual responded that he had entered through a gap in the barrier. SA § 87(2)(b) asked the individual whether he would pass through an open gate if he knew it was supposed to be closed, but the individual did not respond directly. SA § 87(2)(b) walked across 7<sup>th</sup> Avenue with the individual, who was cursing about the police officers and calling SA § 87(2)(b) “one of those pigs.” The individual wanted to cross the street and confront the officers, but SA § 87(2)(b) urged him to leave. The individual said that the officers had hit him, but did not elaborate. SA § 87(2)(b) said that he was not the person to complain to about that. SA § 87(2)(b) did not notice any injuries on the individual. The individual said that he was going to his home in the Village, but walked north on 7<sup>th</sup> Avenue.

SA § 87(2)(b) told the officers to alert the Secret Service if the individual tried to enter the restricted area again and passed around a photo of the individual that had been taken by the police. SA § 87(2)(b) was not aware that the police had seen the individual again after that incident. He received a call that the police had someone in custody at about 2:00PM that day, but the person had been released by the time he responded to the location.

SA § 87(2)(b) did not see any of the officers make any physical contact with the individual.

### *Officer Statements*

*PO Brian Stanley*

#### *Summons*

On August 29, 2004 at 5:10AM, PO Stanley issued a summons to § 87(2)(b) for disorderly conduct – Penal Law 240.20 (3). (encls. 17)

#### *Memo Book*

On August 29, 2004 at 5:10AM, PO Stanley made the following entry in his memo book:

Pickup Disorderly male [southwest] [corner of] W. 33 and 7 Ave. Male [inside of] frozen zone. States he gained entrance thru gate that was open [in front of] MSG ent on 7 Ave. Male was very defiant, didn't give ID when 1<sup>st</sup> requested. Escorted out of frozen area, would not leave Ave. Told to leave, states, “Fuck you.” Placed under arrest. Deft. was [photographed], interviewed by Secret Service. Also stated that I said racial comments. While in handcuffs deft. did push mouth of metal fence to cut own lip.

At 9:59AM, PO Stanley made the following entry in his memo book:

Witness male § 87(2)(b) [in front of] Pennsylvania Hotel, east side 7 Ave [between] W. 33 and W. 32, possibly casing location of MSG during RNC. Individual was detained for questioning by US Secret Service. USSS did not question individual released. Placed in handcuffs taken to W. 33 [between 7 and 8 Ave for questioning states, “I’m going home, to Brooklyn. I just came from MTS PCT.” SGT Dantoni on scene. (encls. 18A-C)

#### *CCRB Statement*

PO Stanley, a § 87(2)(b), was interviewed at the CCRB on October 14, 2004 (encls. 18D-E). On August 29, 2004, PO Stanley worked from midnight to noon and was assigned to an RNC security detail in the “frozen zone.” This zone covered all areas including the sidewalks between West 31<sup>st</sup> and 33<sup>rd</sup> Streets along 7<sup>th</sup> Avenue. Civilian access to this area was restricted, barring special security credentials. Both NYPD and Secret Service officers were assigned to guard the “frozen zone.” Several other officers from his precinct were assigned to the same post: POs Cahill, Sciacca and Rubenstein, and SGT Dantoni. At about 5:00AM, PO Stanley saw § 87(2)(b) walking in the frozen zone and approached him to ask what he was doing there. § 87(2)(b) refused to explain why he was there and initially refused to provide PO Stanley with identification, although he did so eventually. PO Stanley alerted some Secret Service agents (SSAs), who performed a check on § 87(2)(b)'s name and asked § 87(2)(b) to show them how he entered the area. § 87(2)(b) showed PO Stanley and the SSAs a gap in the barriers leading onto 7<sup>th</sup> Avenue, behind a sanitation truck. The SSAs indicated that § 87(2)(b) could leave and PO Stanley reiterated that to § 87(2)(b) who was standing a few feet from the curb on 7<sup>th</sup> Avenue, refused to leave, saying, “Fuck you, I’m not leaving.” PO Stanley responded by

grabbing § 87(2)(b) by the arm and leading him to the corner of West 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue. PO Stanley first said that § 87(2)(b) was in handcuffs when he led him away, but later said that § 87(2)(b) was handcuffed at the corner.

§ 87(2)(b) was questioned and photographed by additional SSAs while PO Sciacca stood guard. While § 87(2)(b) was being questioned, PO Stanley wrote § 87(2)(b) a summons for disorderly conduct. After being questioned, § 87(2)(b) was being guarded by PO Sciacca and another officer. Because § 87(2)(b) was pushing back against the officers, they pushed him against a barrier to keep him still. While § 87(2)(b) was against this barrier, he opened his mouth and rubbed his lips or gums against the barrier. PO Sciacca was holding on to § 87(2)(b) at the time, but did not push his face into the barrier. § 87(2)(b) then said to the officers, "You guys beat me up." § 87(2)(b) also called PO Stanley a racist. PO Stanley asked § 87(2)(b) if he needed medical assistance for whatever injury he might have caused himself, but § 87(2)(b) declined assistance. PO Stanley did not see any injuries on § 87(2)(b)'s face or mouth. Two SSAs took § 87(2)(b)'s photograph and he was allowed to leave. PO Stanley denied pushing § 87(2)(b) against a sanitation truck, although there was one nearby the gap in the barrier where § 87(2)(b) entered the frozen zone. PO Stanley also denied having said that § 87(2)(b) had "one of those names."

PO Stanley decided to issue § 87(2)(b) a summons when he cursed and refused to leave. Asked what it was that made PO Stanley think that § 87(2)(b) intended to cause public inconvenience or alarm, PO Stanley said that § 87(2)(b)'s "whole idea was just to defy anything I asked him to do." PO Stanley said that at the time § 87(2)(b) cursed at him, 7<sup>th</sup> Avenue was open to traffic and there were taxis driving by. Across the avenue, there were a few pedestrians walking by, and PO Stanley noticed that they stopped to see what was happening when § 87(2)(b) cursed at him.

One of the Secret Service agents instructed the officers, in the presence of SGT Dantoni, to stop § 87(2)(b) if they saw him in the area again. Several hours later, PO Stanley saw § 87(2)(b) walking in front of the Hotel Pennsylvania and approached him with POs Cahill and Rubenstein. PO Stanley told § 87(2)(b) that he was being stopped for questioning by the Secret Service. One of the officers handcuffed § 87(2)(b) and escorted him inside the frozen zone near the corner of 33<sup>rd</sup> and 7<sup>th</sup> Avenue. PO Stanley informed an SSA that § 87(2)(b) was in their custody, but the SSA said that he did not need to speak to § 87(2)(b) and that he could be released. § 87(2)(b) did not mention having filed a CCRB complaint, nor did PO Stanley recall seeing a CCRB complaint receipt. PO Stanley believed that someone had frisked § 87(2)(b) but did not recall that anything had been removed from his pockets. PO Stanley did not recall anyone removing or making calls on § 87(2)(b)'s cell phone. PO Stanley completed a Stop and Frisk Report to explain § 87(2)(b)'s detainment.

#### *PO Gaspar Sciacca*

PO Sciacca, a § 87(2)(b), was interviewed at the CCRB on October 14, 2004 (encls. 19). On August 29, 2004, PO Sciacca worked 0100x1200hrs, assigned to an RNC security detail. PO Sciacca was assigned to the "frozen zone" that ran the length of 7<sup>th</sup> Avenue between West 31<sup>st</sup> and 33<sup>rd</sup> Streets. PO Sciacca was working with various officers from several commands, among them POs Stanley and Cahill. SGT Christopher Dantoni was PO Sciacca's supervising officer. POs Sciacca, Stanley, and Cahill were assigned to a vehicle checkpoint near 33<sup>rd</sup> Street. They had been instructed to check the credentials of anyone wishing to enter the frozen zone.

At about 5:00AM, someone noticed that an individual (later identified as § 87(2)(b)) was inside the frozen zone to the south of the officers' post. They approached him to ask where he was coming from and where he was going. § 87(2)(b) said that he was coming from home, but said, "Fuck you, it's none of your business," in response to the second question. PO Stanley asked § 87(2)(b) for his identification, which § 87(2)(b) initially refused to provide. At about that point, SGT Dantoni was alerted and POs Sciacca and Cahill returned to their post, leaving § 87(2)(b) with PO Stanley, SGT Dantoni, and two unidentified Secret Service agents. § 87(2)(b)'s demeanor at that point was "belligerent" and he was objecting loudly to the officers' requests.

PO Sciacca did not see what had happened to § 87(2)(b) at that point because there was a sanitation truck between his post and where § 87(2)(b) was being questioned. Several minutes later, § 87(2)(b) was led back to the vicinity of PO Sciacca's post in handcuffs. PO Sciacca did not know who handcuffed § 87(2)(b) or why. Someone instructed PO Sciacca to guard § 87(2)(b) who was still "belligerent," now objecting to being in handcuffs (not to their tightness) and asking with what he was

being charged. § 87(2)(b) was standing facing a cement highway divider topped by a metal grate that reached to about § 87(2)(b)'s chin level. At some point, § 87(2)(b) rubbed his lips against the grate and PO Sciacca reacted by pulling him back by the elbow and asking what he was doing. § 87(2)(b) stated that the officers had beaten him up.

PO Sciacca immediately alerted SGT Dantoni to § 87(2)(b)'s allegations. SGT Dantoni asked if § 87(2)(b) wanted an ambulance, which § 87(2)(b) refused. At about the same time, a warrant check on § 87(2)(b)'s name had been completed with negative results. PO Sciacca again handed § 87(2)(b) over to PO Stanley, who guarded § 87(2)(b) while the Secret Service photographed him. PO Stanley issued § 87(2)(b) a summons and informed him that he was free to go. PO Sciacca did not know where § 87(2)(b) went at that point. A Secret Service agent informed the officers that they were to alert the Secret Service if they saw § 87(2)(b) in the area again.

PO Sciacca recalled that although 7<sup>th</sup> Avenue was open to vehicular traffic, there were few cars on the road at 5:00AM. He could not recall whether there had been any pedestrians on the sidewalk across the street from the frozen zone. PO Sciacca said that there were several businesses across the street, none of which he believed to have been open at 5:00AM. PO Sciacca also noted that the Hotel Pennsylvania was across the street from his post, but he did not remember whether anyone was going in or out of the hotel at that time. He did not believe that any crowd had gathered to see what was happening with § 87(2)(b).

PO Sciacca never pushed § 87(2)(b) against anything. The only time he jerked on § 87(2)(b)'s arm was when he pulled him away from the grate. PO Sciacca never said or heard anyone else say that § 87(2)(b) had "one of those names."

Later that morning, closer to the end of their tour (noon), the officers saw § 87(2)(b) walking on 7<sup>th</sup> Avenue, across from their post. PO Stanley and another officer approached and detained § 87(2)(b). PO Sciacca did not see what had happened with § 87(2)(b) during the second incident or where the officers had taken him. He believed that § 87(2)(b) had been allowed to go. He did not recall whether § 87(2)(b) had been searched or handcuffed during the second incident. PO Sciacca did not know that § 87(2)(b) had filed a civilian complaint between the two incidents.

A Secret Service agent later clarified his earlier instructions, saying that they were only to alert the Secret Service if § 87(2)(b) was seen in the frozen area, not simply in the vicinity.

*PO Matthew Cahill*

#### *Memo Book*

On August 29, 2004 at 5:10AM, PO Cahill made the following entry in his memo book:

[Pickup of] Disorderly male [with] PO Stanley and PO Sciacca [at] W. 33 and 7 Ave inside of Frozen Zone. Man was argumentative and defiant and refused to ID self and was belligerent when attempted to be escorted out of frozen area and screamed "Fuck you." Deft. was placed under arrest. Deft. was photoed and interviewed by Asst. SAC § 87(2)(b) of [Secret Service].

At 9:59AM, PO Cahill wrote the following in his memo book:

"Deft. § 87(2)(b) was witnessed in [front of] Hotel Pennsylvania possibly casing location of frozen zone and was detained for questioning for Asst. SAC § 87(2)(b). SGT Dantoni on scene" (encl. 20A-C).

#### *CCRB Statement*

PO Cahill, a § 87(2)(b), was interviewed on November 15, 2004 (encls. 20D-E). On August 29, 2004, PO Matthew Cahill worked 0001 to 1200hrs, assigned to provide security in the "frozen zone" between West 31<sup>st</sup> and 33<sup>rd</sup> Streets on 7<sup>th</sup> Avenue. This area covered the entire sidewalk and one or two lanes of traffic. At about 5:00AM, PO Brian Stanley noticed § 87(2)(b) walking in the frozen zone and alerted POs Gaspar Sciacca, Jason Rubenstein, and Cahill. POs Stanley and Sciacca approached § 87(2)(b) while POs Cahill and Rubenstein stayed about 10 feet behind. PO Stanley asked § 87(2)(b) why he was in the restricted area and § 87(2)(b) immediately became argumentative and belligerent. § 87(2)(b) asked the officers why they were harassing him and told them "go fuck themselves" because he had every right to be there. After a few minutes of arguing along these lines, either PO Stanley or Sciacca placed § 87(2)(b) in handcuffs and led him north to a barrier near 33<sup>rd</sup> Street. PO Cahill believed that either PO Stanley or PO Sciacca had frisked and searched § 87(2)(b) but did not recall the details of such a search.

PO Cahill and PO Sciacca guarded § 87(2)(b) for about five minutes while PO Stanley conducted a warrant check on § 87(2)(b)'s name. During that time, § 87(2)(b) was standing quietly, a short distance from a cement barrier topped by a metal grate. The officers were standing on either side of § 87(2)(b) but not holding him. § 87(2)(b)'s cell phone rang several times and § 87(2)(b) explained that he was being paged for work. PO Cahill asked where the cell phone was and took the phone out of the indicated pocket. PO Cahill turned off the phone, informing § 87(2)(b) that he could not use the phone while in custody. § 87(2)(b) did not object to having his phone turned off. A few minutes later, § 87(2)(b) opened his mouth and rubbed his lips or gums against the top of the metal grate in an apparent attempt to injure himself. § 87(2)(b) then alleged that the officers had assaulted him and said that he would file complaints against them. Shortly thereafter, PO Stanley returned with negative results from the warrant check and took a photograph to document any injuries to § 87(2)(b)'s mouth. PO Cahill did not notice that § 87(2)(b) had been injured, but he did not inspect § 87(2)(b) closely. PO Cahill denied pushing § 87(2)(b) against the grate and denied that any other officer had pushed § 87(2)(b) at any time.

PO Stanley issued § 87(2)(b) a summons, released his handcuffs, and told § 87(2)(b) he was free to go. Two secret service agents spoke briefly with § 87(2)(b) before he left. Once § 87(2)(b) had gone, Assistant Special Agent § 87(2)(b) informed the officers that if they saw § 87(2)(b) again, a Secret Service agent should be alerted.

At about 10:00AM, one of the officers noticed § 87(2)(b) walking south on 7<sup>th</sup> Avenue between 33<sup>rd</sup> and 32<sup>nd</sup> Streets. POs Stanley and Rubenstein approached § 87(2)(b) placed him in handcuffs, and brought him back into the frozen zone. Agent § 87(2)(b) told the officers that they did not need to talk to § 87(2)(b) anymore and instructed them to release him. PO Stanley completed a UF-250 to document the detention. PO Stanley frisked and searched § 87(2)(b) again, recovering a complaint receipt. The receipt was not discussed. Later in the interview, when asked whether he had handled § 87(2)(b)'s cell phone during the second incident, PO Cahill said that he had taken § 87(2)(b)'s cell phone out of his pocket after frisking him. PO Cahill then explained that he had frisked one side of § 87(2)(b) while PO Stanley frisked the other. PO Cahill said that he had opened the cell phone to see whether there was anything inside it. PO Cahill said that it was the same cell phone he had turned off during the first stop. Asked why he had checked the cell phone, PO Cahill said that he wanted to make sure there was nothing inside the phone, adding that § 87(2)(b) "could have done anything in the time since they first saw him." Nothing else was recovered during the frisk of § 87(2)(b). PO Cahill said that § 87(2)(b) had been searched because it is a Department policy for officers to do so whenever they take charge of a prisoner.

#### *PO Jason Rubenstein*

#### *Memo Books*

On August 29, 2004 at 5:10AM, PO Rubenstein made the following entry in his memo book:

"1 male unknown in secure location was asked to leave told PO Stanley, "Fuck you," and was cuffed and summonsed." At 10:00AM he wrote, "1 male [suspicious] returned was needed for questioning was cuffed and released. UF-250 prepared." (encls. 22A)

#### *CCRB Statement*

PO Rubenstein, a § 87(2)(b), was interviewed at the CCRB on June 1, 2004 (encl. 22B-C). On August 29, 2004, PO Rubenstein was assigned to guard a vehicle checkpoint at West 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue on the northeast corner of Madison Square Garden. POs Stanley, Sciacca, and Cahill were also assigned to PO Rubenstein's post and SGT Dantoni was their supervisor. A security zone that circled the Garden and extended into the middle of 7<sup>th</sup> Avenue was restricted to those with special credentials and those with credentialed escorts. At about 5:00AM, one of the officers noticed that § 87(2)(b) was inside the restricted area, about 20 feet south of the officers' post. The officers approached § 87(2)(b) and PO Stanley asked him what he was doing inside the frozen zone and how he had gotten there. § 87(2)(b) did not respond in any way, and PO Rubenstein thought that § 87(2)(b) might not speak English. A Secret Service agent approached and asked § 87(2)(b) the same questions and eventually § 87(2)(b) answered, "I don't know." The Secret Service agent somehow obtained § 87(2)(b)'s identification and had § 87(2)(b) show the officers how he had entered. § 87(2)(b) showed the officers and the Secret Service agent a gap in the fence about 100 feet south of the officers' post where he had entered. The Secret Service agent told the officers that § 87(2)(b) was free to go and PO Stanley instructed § 87(2)(b) to leave. § 87(2)(b) did not respond, and PO Stanley repeated his instructions about three times. § 87(2)(b) walked toward the opening, which was about 10 feet away,



then turned around and walked part-way back towards the officers and said to PO Stanley, "Fuck you." PO Stanley then handcuffed § 87(2)(b) who put up light resistance. There was no significant physical struggle and no additional officers were required to help PO Stanley handcuff § 87(2)(b). There was a sanitation truck about 20 feet away from the opening where § 87(2)(b) entered, but he never made contact with the truck. No one was injured during the handcuffing. PO Rubenstein believed that a captain or inspector happened to have been walking by and was consulted on how to proceed with § 87(2)(b). PO Rubenstein assumed when § 87(2)(b) was handcuffed that he would be arrested, but the supervisor said that § 87(2)(b) should be released with a summons.

§ 87(2)(b) was escorted back to the officers' post by PO Stanley. § 87(2)(b) did not resist being escorted and no officer pulled on § 87(2)(b)'s handcuff chain. § 87(2)(b) was told to stand near a cement bumper with a metal fence behind it and PO Sciacca held on to § 87(2)(b) by the upper arm. § 87(2)(b) repeatedly said "fuck you" to the officers. PO Stanley walked towards a nearby ESU truck to write § 87(2)(b) a summons for disorderly conduct and PO Rubenstein stood at his post about 10 feet from § 87(2)(b) but was still watching him. § 87(2)(b) leaned forward, put his face against the metal fence, and rubbed his face back and forth. PO Sciacca pulled § 87(2)(b) back and asked what he was doing. § 87(2)(b) did not explain. PO Rubenstein did not believe that § 87(2)(b) had been injured. PO Rubenstein denied that PO Sciacca had pushed § 87(2)(b) against the fence. PO Rubenstein said that § 87(2)(b) was frisked and searched, possibly by PO Stanley, but could not recall what, if anything, was taken from his person.

At some point, SGT Dantoni was told what § 87(2)(b) had done, but PO Rubenstein could not recall what, if anything, SGT Dantoni had done in response. § 87(2)(b) was issued the summons and told to leave the area and warned that he would be arrested if he returned. § 87(2)(b) did not object and left without incident. A few hours later, a Secret Service supervisor told the officers that if they saw § 87(2)(b) in the area again, they should detain him for questioning by the Secret Service.

At about 10:00AM, PO Cahill saw § 87(2)(b) walking south on 7<sup>th</sup> Avenue in a restricted press area across the street from the officers' post. POs Cahill, Stanley, and Rubenstein went across the street, stopped § 87(2)(b) and placed him in handcuffs. PO Rubenstein believed that PO Cahill had handcuffed § 87(2)(b) who again put up light resistance. § 87(2)(b) did not ask why he was being handcuffed and PO Stanley did not tell § 87(2)(b) that he was stopped "for being stupid." § 87(2)(b) was escorted back to the officers' post by one of the three officers and was compliant, except that he walked slowly.

One of the officers frisked and searched § 87(2)(b) but PO Rubenstein could not recall whether anything had been taken from his person. PO Rubenstein did not recall PO Cahill having been in possession of § 87(2)(b)'s cell phone. When asked whether a CCRB complaint form had been found on § 87(2)(b)'s person, PO Rubenstein said that one had been found. § 87(2)(b) did not mention that he had filed a complaint. The officers did not question § 87(2)(b) about the complaint.

A Secret Service agent responded after a few minutes and briefly questioned § 87(2)(b) and then instructed the officers that § 87(2)(b) was free to go. One of the officers completed a Stop, Question and Frisk Worksheet to document the stop.

§ 87(2)(b) never complained about the tightness of the handcuffs or of any injuries to his wrists from the handcuffs during either stop. No officer pushed § 87(2)(b) against any hard object during either stop.

#### *SGT Dantoni*

SGT Dantoni, a § 87(2)(b), was interviewed at the CCRB on December 13, 2004 (encls. 21). On August 29, 2004, SGT Dantoni worked midnight to noon as detail supervisor on the corner of West 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue. SGT Dantoni was supervising about eight officers from his command who were assigned to guard a vehicular and pedestrian entrance to Madison Square Garden. Completely encircling the Garden was a perimeter barrier made of cement dividers topped by metal gratings that reached to about head height. The area covered the entire sidewalk around the Garden at least one lane on 7<sup>th</sup> Avenue. Only those with proper credentials were allowed through the gate.

At about 5:00AM, while SGT Dantoni was on his meal break about one block from his post, one of his officers informed him that they had stopped an individual § 87(2)(b) in the restricted area. SGT Dantoni returned to his post and saw that § 87(2)(b) was handcuffed and seated on the curb. § 87(2)(b) was cursing about being arrested. At least one officer was standing nearby to make sure he did not

stand up, but no one was physically restraining him. SGT Dantoni could not recall with whom he spoke, but an officer told him that § 87(2)(b) had been combative and uncooperative after being questioned about why he was in the restricted area. SGT Dantoni spoke with his lieutenant, and the lieutenant spoke with his captain, both of whom were nearby. A Secret Service agent (SSA) was also consulted, and one of the officers decided that § 87(2)(b) should be issued a summons for disorderly conduct. SGT Dantoni was not certain who had made this decision, but knew that it was not PO Stanley. SGT Dantoni did not know why PO Stanley was asked to write the summons. SGT Dantoni said that the only way that § 87(2)(b) could have entered the restricted area was by climbing over the barrier. SGT Dantoni said that entering the restricted area in this way constituted disorderly conduct.

After § 87(2)(b) was issued the summons, SGT Dantoni instructed him to leave and said that § 87(2)(b) would be arrested if he returned to the area [not just inside the restricted area, but the vicinity of the Garden]. A SSA told SGT Dantoni and his officers that if they saw § 87(2)(b) in the area again, they should detain him for questioning by the Secret Service.

Several hours later, SGT Dantoni saw § 87(2)(b) standing in front of the Hotel Pennsylvania, directly across 7<sup>th</sup> Avenue from the officers' post. SGT Dantoni and two or three other officers ran over to § 87(2)(b) and placed him in handcuffs. SGT Dantoni considered § 87(2)(b) to be under arrest at that time for having violated his warning not to return to the area. SGT Dantoni was pressed to explain his justification for such an arrest, but said only that he believed § 87(2)(b) was "attempting to trespass" in the restricted area. § 87(2)(b) was led back into the restricted area by an unknown officer. SGT Dantoni did not recall any officer jerking on § 87(2)(b)'s handcuff chains or that § 87(2)(b) had complained of pain to his wrists.

#### *PO Karen Murphy*

PO Murphy, a § 87(2)(b), was interviewed on March 8, 2005 (encl. 23). On August 29, 2004, PO Murphy worked from midnight to noon and was assigned to detail number 196. She and a number of officers from her command were required to provide security along 7<sup>th</sup> Avenue between West 33<sup>rd</sup> and West 32<sup>nd</sup> Streets, in front of Madison Square Garden. There were barriers set up in one of the lanes of traffic on 7<sup>th</sup> Avenue and no one without proper credentials was allowed into the area. PO Murphy recalled one incident where a civilian without credentials entered the frozen zone, although she was not certain on what day or at what time it occurred. On that occasion, she and the other officers on the post noticed a man walking north on the sidewalk in front of the Garden. Several officers – PO Murphy could not recall whom – asked the individual what he was doing in the frozen zone and he responded that he was just walking. The officers also asked how the individual had entered the frozen zone, but he did not respond. Although it was very hot outside, the individual was wearing dark pants and a black hooded sweatshirt. The individual had his hands in the front pouch pocket of the sweatshirt and refused to remove them at the officers' request. Instead, he started moving his hands around inside the pocket. It appeared to PO Murphy that the individual was trying to incite the officers to some type of action. The individual also started to yell something at the officers, but she did not know what he was saying. The officers repeatedly told the individual that he had to leave the frozen zone, but he did not respond. At some point, it occurred to PO Murphy that the individual might be a protestor who was trying to distract the officers so that others could jump the barriers and enter the security area. PO Murphy then turned her attention down 7<sup>th</sup> Avenue to watch the barriers. PO Murphy did not know how the individual was made to leave the frozen zone. She did not see any officer have any physical contact with the individual. The individual was never placed in handcuffs. PO Murphy learned later that someone from the Secret Service had questioned the individual. PO Murphy did not see the individual on any subsequent occasion. PO Murphy described the individual as a white or Hispanic male with dark hair.

#### *SGT Joseph Castro*

SGT Joseph Castro, a male white officer in the Midtown South Precinct, processed § 87(2)(b)'s civilian complaint at the MTS stationhouse on August 29, 2004. Although the CCRB did not interview SGT Joseph Castro, he provided statements regarding § 87(2)(b)'s physical condition on the complaint form. Specifically, he noted that § 87(2)(b) had alcohol on his breath and bloodshot eyes. He also recorded that § 87(2)(b) had a small mark on his left cheek, but no blood on his lip (encl. 9A-B and 10B).

### ***Additional Investigative Actions***

#### ***Zone Map***

The incident occurred on 7<sup>th</sup> Avenue between 32<sup>nd</sup> and 33<sup>rd</sup> Street. Post 114 is located near the corner of 7<sup>th</sup> Avenue and 33<sup>rd</sup> Street and is denoted by an asterisk (encl. 00A).

#### ***Medical Records***

§ 87(2)(b) was treated at § 87(2)(b) on § 87(2)(b) (encls. 24). He complained of pain to both of his wrists, but noted that the pain had decreased from the previous days. X-rays were negative.

#### ***Disposition of § 87(2)(b)'s Summons***

Dismissed

#### ***Detail Rosters***

The detail roster for Sector 1, Post 114 lists the officers assigned to this post, which is at 31<sup>st</sup> Street and Eighth Avenue (encl. 25\*) All of the officers interviewed for this case were listed on the detail roster.

#### ***UF-250***

According to the ICO's office at both the 17<sup>th</sup> Precinct and the Criminal Records Bureau, there was no UF-250 on file in connection to PO Stanley's stop and frisk of § 87(2)(b)

#### ***§ 87(2)(b)'s Criminal Conviction History***

§ 87(2)(b) has never been arrested in New York City (encl. 29C).

#### ***Officers' CCRB Histories***

Neither of the subject officers in this complaint—PO Stanley, PO Sciacca, or PO Cahill—has ever had a CCRB allegation substantiated (encls. 5-7). Each officer has three years of tenure.

### **Conclusions and Recommendations**

#### ***Officer Identification***

§ 87(2)(b) identified PO Stanley and PO Sciacca by name in his initial complaint at the 17<sup>th</sup> Precinct. PO Stanley admitted to being the officer who first stopped § 87(2)(b) and the one who led him from the opening in the barrier where § 87(2)(b) entered the restricted area to the officers' post. Although only PO Sciacca admitted to being the officer who was guarding § 87(2)(b) at the time § 87(2)(b)'s face came in contact with the fence, § 87(2)(b) accurately described PO Stanley as having been the officer that allegedly pushed his face. § 87(2)(b) stated that it was PO Stanley who stopped him during the second incident, handcuffed him and escorted him back to the officers' post. None of the officers were able to recall which officer stopped and handcuffed § 87(2)(b) during the second incident. PO Cahill admitted to having removed § 87(2)(b)'s cell phone during the second incident.

#### ***Undisputed Facts***

On August 29, 2004 at about 5:00AM, § 87(2)(b) walked inside a restricted area around Madison Square Garden and was stopped and questioned by PO Stanley. § 87(2)(b) was placed in handcuffs and

issued a summons for disorderly conduct by PO Stanley. While § 87(2)(b) was in handcuffs, his face came into contact with a fence in front of which he was standing. At about 10:00AM, after filing a CCRB complaint about the above incident, § 87(2)(b) walked past the location where he had been issued a summons and was again stopped by officers involved in the first incident. During the second incident, PO Cahill frisked § 87(2)(b) and removed and examined his cell phone.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

*Allegation A: At 5:00AM, PO Brian Stanley stopped § 87(2)(b)*

Part of PO Stanley's assignment on the incident date was to ensure that no unauthorized persons entered the security area around Madison Square Garden. § 87(2)(b), § 87(2)(g)

*Allegation B: At 5:00AM, PO Brian Stanley used physical force against § 87(2)(b)*

In his CCRB telephone, in-person statements, and IAB statements § 87(2)(b) identified PO Stanley by name as the officer that hit his face against the metal gate. In his complaint form he did not

identify the subject. The officers all indicated that PO Stanley was not in close proximity with § 87(2)(b) when § 87(2)(b)'s face was in contact with the gate. All officers agreed that PO Sciacca was guarding § 87(2)(b). However, § 87(2)(b) was consistent in identifying PO Stanley as the subject officer and, in addition to providing PO Stanley's name, § 87(2)(b) provided physical descriptions of the officers in line with their appearances. He described PO Stanley as taller than § 87(2)(b) who is 5'8," and with blue eyes and a slim build. In contrast, he described PO Sciacca as the tallest, heaviest officer on scene. Indeed, PO Sciacca is nearly 80lbs heavier than PO Stanley, who is 195lbs. PO Sciacca is also the tallest officer (6'1") though PO Stanley (6') is taller than § 87(2)(b). Also, § 87(2)(b) described the "sergeant" as being bald and SGT Dantoni is indeed bald. Thus, PO Stanley is the subject officer.

§ 87(2)(b) alleged that PO Stanley pushed him against the metal Jersey bumper "subway grate," an action which caused injuries to § 87(2)(b)'s lips and mouth. § 87(2)(b), § 87(2)(g). PO Stanley insisted that § 87(2)(b) pushed PO Sciacca, prompting PO Sciacca to push § 87(2)(b) against the barrier. PO Sciacca did not confirm these details and also said that the first thing he did when § 87(2)(b) threatened to blame his injuries on the officers was to call SGT Dantoni. However, no officer, including SGT Dantoni, confirmed this assertion. § 87(2)(b), § 87(2)(g).

*Allegation C: At 5:00AM, PO Gaspar Sciacca used physical force against § 87(2)(b)*

In both his telephone and in-person statements to CCRB, as § 87(2)(b), § 87(2)(a) Gen. Mun. § 50-, § 87(2)(b) alleged that PO Sciacca lifted his handcuffs after § 87(2)(b) complained that "the violence wasn't necessary." He made a similar complaint in his in-person statement, though he attributed the allegation to his "arresting officer." He made no such allegation in his IAB statement even though this statement occurred within minutes of filing his in-person complaint at the Midtown South Precinct. § 87(2)(b), § 87(2)(g).

*Allegation D: At 5:00AM PO Brian Stanley issued a summons to § 87(2)(b)*

§ 87(2)(b) alleged that he was issued a summons for disorderly conduct in retaliation for having said "fuck you" to PO Stanley in response to PO Stanley having called him a smartass. According to PO Stanley, § 87(2)(b) committed disorderly conduct by cursing at him and refusing to leave the security area as directed. The statute cited by PO Stanley was Penal Law 240.20, section 3, which reads as follows:

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof ... in a public place, he uses abusive or obscene language, or makes an obscene gesture. (encl. 1)

§ 87(2)(b), § 87(2)(g)

According to PO Stanley, § 87(2)(b)'s attitude had been to "defy anything [he] asked him to do." Specifically, PO Stanley stated that § 87(2)(b) had initially refused to explain why he was in the security area and to provide a form of identification, although he eventually provided both. PO Stanley said that when § 87(2)(b) was instructed to leave the security area, he responded, "Fuck you, I'm not leaving." PO Sciacca claimed that § 87(2)(b) had said, "Fuck you, it's none of your business," when asked why he was in the security area. PO Sciacca said that he was not present when § 87(2)(b) was handcuffed, but said that before he walked away, § 87(2)(b)'s demeanor had been belligerent and that § 87(2)(b) was objecting loudly to the officers' requests. PO Cahill stated that § 87(2)(b) had told the officer to go fuck themselves and described § 87(2)(b)'s demeanor throughout the stop as argumentative and belligerent. PO Rubenstein stated that § 87(2)(b) had been so quiet that he wondered if § 87(2)(b) spoke English, but claimed that as § 87(2)(b) was walking away after being instructed to leave, § 87(2)(b) started to walk back towards the officers and said, "Fuck you."

PO Stanley stated that 7<sup>th</sup> Avenue was open to traffic and that there were taxis driving on the street. § 87(2)(b) had been asked to leave the security area through the gap in the security fence where he entered, which was in the middle of the block, south of West 33<sup>rd</sup> Street. At this point, 7<sup>th</sup> Avenue is more than three lanes wide. PO Stanley claimed that "a few" pedestrians were walking by and that they stopped to see what was happening when § 87(2)(b) cursed at him. No other officer testified to having seen uninvolved civilians walking by or stopping to see what was happening.

§ 87(2)(b) admitted to being confrontational with the officers, but merely using profanity, as indicated in the summons issued by PO Stanley, § 87(2)(g). In *Police Department v. Celis*, the court wrote that "even speech that is abusive or obscene is not subject to criminal prosecution unless it is made with the specific intent to cause public annoyance or alarm." (encl. 3) Similarly, in *Police Department vs. Bernandini*, the court found that "the words uttered must be provocative of immediate violence other breach of peace...mere annoyance or personal offense at disrespectful language, is insufficient" to justify and arrest or summons for disorderly conduct (encl. 4).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

*Allegation E: At 9:00AM, PO Brian Stanley stopped § 87(2)(b)*

PO Stanley stated that he had been ordered by a member of the Secret Service to detain § 87(2)(b) for questioning if he was seen in the area again. SSA § 87(2)(b) stated that he advised the officers to detain § 87(2)(b) if § 87(2)(b) returned to the "restricted area." § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

*Allegation F: At 9:00AM, PO Brian Stanley used physical force against § 87(2)(b)*

§ 87(2)(b) alleged that while being led from the location where he was stopped at 10:00AM, the southeast corner of West 33<sup>rd</sup> Street and 7<sup>th</sup> Avenue, to the officers' post on the southwest corner, PO Stanley jerked on § 87(2)(b)'s handcuffed arms with an intent to cause him pain. PO Stanley did not admit to having been the officer who handcuffed § 87(2)(b) during the second incident and he denied using any such force against § 87(2)(b). § 87(2)(b), § 87(2)(g)

*Allegation G: At 9:00AM, PO Matthew Cahill frisked § 87(2)(b)*

*Allegation H: At 9:00AM, PO Matthew Cahill searched § 87(2)(b)*

§ 87(2)(b) stated that POs Stanley and Cahill frisked him when he was stopped for a second time. PO Stanley stated that he believed someone had frisked § 87(2)(b) but did not believe that anything had been taken from his pockets. PO Cahill initially denied frisking or searching § 87(2)(b) but admitted to doing both when questioned about whether he handled § 87(2)(b)'s phone during the second stop. § 87(2)(b), § 87(2)(g)

§ 87(2)(b). Kamins emphasizes that, to justify a frisk, an officer must entertain an independent belief that a subject is in possession of an object that poses imminent physical harm (encl. 2). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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Investigator:	Date:
Supervisor:	Date:
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